

IN THE UNITED STATES OF THE DISTRICT OF DELAWARE
FOR THE DISTRICT OF DELAWARE

WILLIAM R. DAVIS, as executor
of the estate of James W. Davis,
Sr., deceased,

Plaintiffs,

v.

RAYMOND JAMES & ASSOCIATES, INC.,
a Florida corporation

Defendant, Crossclaim-
Defendant,

and

CHRISTINE M. POFFENBARGER,

Defendant, Counterclaim-
Plaintiff, Crossclaim-
Plaintiff and
Third-Party Plaintiff

v.

WILLIAM R. DAVIS, JAMES W. DAVIS,
JR., and LINDA M. TROUTT, and
STAR ENTERPRISE, INC. a
Delaware corporation,

Third-Party Defendants.

C.A. No. 05-288

**AMENDED ANSWER WITH AFFIRMATIVE DEFENSES OF DEFENDANT,
RAYMOND, JAMES & ASSOCIATES, INC., TO PLAINTIFF'S COMPLAINT**

1. Defendant, Raymond James & Associates, Inc., is without information or knowledge sufficient to enable it to form a belief as to the truth of the averments in paragraph 1 of plaintiff's Complaint.

2. Defendant, Raymond James & Associates, Inc., is without information or knowledge sufficient to enable it to form a belief as to the truth of the averments in paragraph 2 of plaintiff's Complaint.

3. Admitted.

4. Defendant, Raymond James & Associates, Inc., is without information or knowledge sufficient to enable it to form a belief as to the truth of the averments in paragraph 4 of plaintiff's Complaint.

5. Admitted.

6. Admitted that Christine M. Poffenburger is listed on account documents as the named beneficiary of decedent's IRA account.

7. Admitted upon information and belief.

8. Admitted that plaintiff faxed instructions to defendant, Raymond James & Associates, Inc., the terms of which speak for themselves. Defendant, Raymond James & Associates, Inc., is without information or knowledge sufficient to enable it form a belief as to the truth of the remaining factual averments in paragraph 8 of plaintiff's Complaint.

9. Admitted.

10. Admitted upon information and belief.

11. Admitted.

12. Admitted.

13. The averments in the first sentence of paragraph 13 of plaintiff's Complaint are admitted. The averments in the second sentence are denied as conclusions of law to which no response is required.

14. Admitted upon information and belief.

15. Denied as a conclusion of law to which no response is required.

WHEREFORE, defendant, Raymond James & Associates, Inc., demands that plaintiff's Complaint against it be dismissed with prejudice and that judgment be entered in favor of defendant, Raymond James & Associates, Inc., together with reasonable attorneys' fees and costs.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant, Raymond James & Associates, Inc., reserves the right to interplead into Court those IRA funds at issue in the instant matter.

THIRD AFFIRMATIVE DEFENSE

Any and all claims against defendant, Raymond James & Associates, Inc., are barred by the terms of the applicable Agreement.

FOURTH AFFIRMATIVE DEFENSE

Defendant, Raymond James & Associates, Inc., breached no duties to any party at any time.

FIFTH AFFIRMATIVE DEFENSE

No party is entitled to attorneys' fees, interest or costs from defendant Raymond James & Associates, Inc.

SIXTH AFFIRMATIVE DEFENSE

Defendant, Raymond James & Associates, Inc. is a mere stakeholder and has no interest in the proceeds of the IRA account in question.

SEVENTH AFFIRMATIVE DEFENSE

Defendant, Raymond James & Associates, Inc., reserves the right to plead additional affirmative defenses as warranted.

WHEREFORE, defendant, Raymond James & Associates, Inc., demands that plaintiff's Complaint against it be dismissed with prejudice and that judgment be entered in favor of defendant, Raymond James & Associates, Inc., together with reasonable attorneys' fees and costs.

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

**BY: /s/ Kevin J. Connors
KEVIN J. CONNORS, ESQ.
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Attorney for Defendant,
Raymond James & Associates, Inc.**

DATED: June 7, 2005
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CERTIFICATE OF SERVICE

I hereby certify that I have served upon all persons listed below two true and correct copies of the AMENDED ANSWER WITH AFFIRMATIVE DEFENSES OF DEFENDANT, RAYMOND JAMES & ASSOCIATES, INC., TO PLAINTIFF'S COMPLAINT, in the above-captioned matter this date via e-file and regular mail:

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**MARSHALL, DENNEHEY, WARNER,
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DATED: June 7, 2005
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